

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

DAVID KLUCKA,

Plaintiff,

v.

RANDALL REGO, et al.,

Defendants.

Case No. 2:15-cv-01535-JCM-PAL

**ORDER**

(IFP Application – Dkt. #1)

This matter is before the Court on Plaintiff David Klucka's Application to Proceed *In Forma Pauperis* (Dkt. #1), filed August 12, 2015. This proceeding is referred to the undersigned pursuant to 28 U.S.C. § 636(a) and LR IB 1-3 and 1-9.

Plaintiff is a prisoner proceeding in this action *pro se*. He has requested authority pursuant to 28 U.S.C. § 1915 to proceed *in forma pauperis* ("IFP"), meaning without the prepayment of fees. However, Plaintiff's application is incomplete. Local Rule LSR 1-2 and § 1915 specifically require three items be submitted to this Court with a prisoner's IFP application: (1) a financial certificate signed by an authorized officer of the institution in which he or she is incarcerated,<sup>1</sup> (2) a copy of his or her inmate trust account statement for the six-month period prior to filing,<sup>2</sup> and (3) a signed affidavit showing an inability to prepay fees and

---

<sup>1</sup> Local Rule LSR 1-2 provides:

An application to proceed *in forma pauperis* received from an incarcerated or institutionalized person shall be accompanied by a *certificate from the institution certifying the amount of funds currently held in the applicant's trust account* at the institution and the net deposits in the applicant's account for the six (6) months preceding the submission of the application. If the applicant has been at the institution for less than six (6) months, the certificate shall show the account's activity for such period.

(emphasis added).

<sup>2</sup> 28 U.S.C. § 1915(a)(2) states:

A prisoner seeking to bring a civil action or appeal a judgment in a civil action or proceeding without prepayment of fees or security therefor, in addition to filing the

costs or give security for them. The financial affidavit required for prisoners differs from the “Short Form” for non-incarcerated litigants; thus, prisoners must submit the correct form of IFP application for the Court’s review.

At the time Plaintiff filed his IFP application, he was incarcerated at the Clark County Detention Center. However, he incorrectly filed “Short Form” IFP application for non-incarcerated persons. Because Plaintiff used the incorrect form, his IFP application does not contain the appropriate financial information, affidavit, or financial certificate for incarcerated litigants as required by 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2. Although it appears Plaintiff qualifies to proceed *in forma pauperis*, the Court cannot determine the amount of the initial partial filing fee because Plaintiff has not submitted the correct IFP application, affidavit, and financial certificate. Therefore, the Court will deny Plaintiff’s IFP application without prejudice.

Accordingly,

**IT IS ORDERED:**

1. Plaintiff’s Application to Proceed *In Forma Pauperis* (Dkt. #1) is DENIED WITHOUT PREJUDICE.
2. The Clerk of Court shall retain Plaintiff’s Complaint (Dkt. #1-1), and shall mail Plaintiff a blank IFP application for incarcerated litigants along with instructions for completing the application.
3. Plaintiff shall file a new IFP application, accompanied by a signed and executed financial certificate, a signed and executed financial affidavit, and a statement of his/her inmate trust account.
4. Plaintiff shall have until **September 28, 2015**, to file a new IFP application.
5. Alternatively, Plaintiff shall pay the filing fee of three hundred fifty dollars


---

affidavit filed under paragraph (1), *shall submit a certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the complaint or notice of appeal, obtained from the appropriate official of each prison at which the prisoner is or was confined.* (emphasis added).

1 (\$350.00),<sup>3</sup> accompanied by a copy of this Order, on or before **September 28, 2015**.

- 2 6. Plaintiff's failure to comply with this Order by: (a) submitting a new IFP application,  
3 or (b) paying the filing fee, before the **September 28, 2015** deadline will result in a  
4 recommendation to the District Judge that this case be dismissed.

5 Dated this 27th day of August, 2015.

6   
7 PEGGY A. LEEN  
8 UNITED STATES MAGISTRATE JUDGE  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

28 <sup>3</sup> Pursuant to the Court's Schedule of Fees dated January 1, 2015, the administrative fee of \$50.00 does not apply to persons granted *in forma pauperis* status under 28 U.S.C. § 1915.